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INFO RUEHZS/ASSOCIATION OF SOUTHEAST ASIAN NATIONS

RUCPDOC/DEPT OF COMMERCE WASHDC

RUEATRS/DEPT OF TREASURY WASHDC

RUEHKL/AMEMBASSY KUALA LUMPUR 2396

RUEHBK/AMEMBASSY BANGKOK 8197

RUEHGP/AMEMBASSY SINGAPORE 6191

UNCLAS SECTION 01 OF 02 JAKARTA 002973

SIPDIS

SINGAPORE FOR SUSAN BAKER

SIPDIS

SENSITIVE

DEPT FOR EAP/MTS, EAP/RSP, EB/TPP, EB/TPP/BTA

COMMERCE FOR SBERLINGUETTE

USTR FOR BWEISEL

TREASURY FOR IA-BAUKOL

E.O. 12598: N/A

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SUBJECT: NATIONAL INVESTMENT TEAM VS NEGATIVE LIST

¶11. (SBU) Summary. The Government of Indonesia (GOI) reestablished its National Team for the Enhancement of Export and Investment (PEPI) to coordinate investment policy formulation and implementation in addition to investment promotion. The institution was reinvigorated in response to complaints from the international business community over Indonesia's "negative list" of sectors limiting foreign investment. GOI officials are already directing disgruntled foreign investors to this new national team, however PEPI's success (and ultimate longevity) may be determined by how well it achieves its first objective: clarifying the grandfathering provision of Indonesia's 2007 Investment law. End Summary.

Season of Discontent

¶12. (SBU) PEPI was reestablished to assuage increasing investor anxiety over implementation of Indonesia's 2007 investment law. Investors have expressed concern over "mixed messages" from the GOI on several issues, most notably the retroactive application of investment limits to companies incorporated in Indonesia before enactment of the law. GOI officials, (including Minister Pangestu), have repeatedly assured pre-existing foreign investors they would be "grandfathered" and not subject to the same requirements and restrictions as new investors. Nonetheless some investors have complained of pressure from GOI officials to begin divesting.

¶13. (SBU) For example, the foreign owners of Jakarta-based security firms were recently called in to meet police officials who informed them that they would be expected to divest their majority shares by the end of the year. The police officials had even "helpfully" identified local business partners ready to buy the divested shares.

When the foreign investors complained, the police officials insisted that that the investors had "misinterpreted" the grandfathering provision of the law.

PEPI to the Rescue

¶14. (SBU) Bacelius Ruru, the newly designated Executive Secretary of PEPI, tells us that PEPI has prepared a draft recommendation clarifying the grandfathering provision. Ruru explained that companies that applied for or received a business license prior to the enactment of the investment law would not be required to divest their shares. In addition, those companies would also be allowed to expand their business (within the same sector) to the maximum ownership percentage allowed under the previous regulations. If enacted as an implementing regulation, Ruru hopes the clarification

will serve to calm investor anxiety as well as deter GOI officials from enforcing their own interpretation of the law on sectors they regulate. While the recommendation has been endorsed by the ministerial-led working group, it is unclear how or when it will be ultimately codified as an implementing regulation.

How it Works

15. (SBU) PEPI was legally re-established in July 2007 through Presidential Decree but was not formally announced until September 25 when Minister for Coordinating Economic Affairs Boediono presented it as part of the GOI's annual update on economic reforms. PEPI used the interim time to identify office space and recruit and staff a full-time secretariat comprising over a dozen personnel. This latest version of PEPI is organized with three working groups:

- Investment Policy Formulation;
- Investment Policy Implementation;
- Investment Promotion.

The three working groups are led by Minister Pangestu, (with Vice-Chair Minister of Transportation Djamal), Minister of Administrative Reforms Effendi (with Vice-Chair Investment Board Chairman Lutfi) and Minister of Industry Fahmi (with Vice-Chair Minister of Tourism Wacik) respectively. While the Secretariat maintains its offices in the same building as the Investment Coordinating Board (BKPM), PEPI officials insist it is an autonomous institution with an independent budget that answers to the President through the ministerial working groups.

16. (SBU) The actual process for converting working group recommendations from proposals to policy is both unclear and untested. As explained by PEPI officials, recommendations from the

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working groups will go to the lead Ministers for endorsement, and then be forwarded to Coordinating Minister Boediono for provisional approval. The Ministry for Coordinating Economic Affairs would then direct the recommendation either to the President's office for final approval and issuance as a Presidential Decree, or to the relevant line Ministry for issuance as a regulation.

And For My Next Trick...

17. (SBU) Ruru explained that PEPI's most important role is to serve as the government's coordinating mechanism on investment policy. In addition, PEPI has responsibility for formulating a "more integrated" approach to investment promotion and providing recommendations on implementation of the investment law, including advising the government on future changes to the negative list. Ruru also expressed the willingness of PEPI to play an informal role in helping to mediate investment disputes, but conceded it had little direct authority. Lastly, Ruru expounded on the technical challenges inherent to investment policy and requested assistance for PEPI in the form of advisors (statisticians, economists, investment specialists) like those provided to the Ministry of Trade by the USAID-funded Indonesia Trade Assistance Project (ITAP).

The Verdict is Still Out, However...

18. (SBU) COMMENT: In Indonesia, the setting up of a "National Team" to address any high-profile issue is a standard consensus-building strategy, and therefore not remarkable in itself. The success record of these teams in other sectors is not encouraging. Nor is the uncertainty of how PEPI will manage its relationship with the notoriously turf-conscious BKPM. But PEPI's independent budget, full-time staff and confidence in taking on the contentious issue of grandfathering give cause for guarded optimism.

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